

ENTERED

August 30, 2024

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISIONAIR LIQUIDE LARGE INDUSTRIES US,
LP and AIR LIQUIDE USA, LLC

VS

TENASKA POWER SERVICES CO.

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CIVIL ACTION NO. H-21-4129

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court in the above referenced proceeding is Air Liquide Large Industries US LP and Air Liquide Large Industries US LP's Motion for Summary Judgment (Doc. Nos. 53, 54); Tenaska Power Services Co.'s Motion for Summary Judgment (Doc. Nos. 55, 56), Tenaska's Motion to Strike Exhibit 34 and Portions of Exhibits 17 & 24 to Air Liquide's Response to Tenaska's Motion for Summary Judgment Pursuant to Federal Rule of Civil Procedure 56(c) (Doc. No. 62); the various responses and replies to the Motions; and Judge Bennett's Memorandum and Recommendation (Doc. No. 72, sealed). Both parties filed objections to the Memorandum and Recommendation (Doc. Nos. 73, 74).

The Court has carefully reviewed, *de novo*, the filings, the applicable law, the Magistrate Judge's Memorandum and Recommendation, and the objections thereto, and agrees with the Magistrate Judge's conclusions. Accordingly, it is hereby

ORDERED that Plaintiffs' Objections (Doc. No. 73) and Defendant's Objections (Doc. No. 74) are **OVERRULED**; the Memorandum and Recommendation (Doc. No. 72) is **ADOPTED**. It is further

ORDERED that Tenaska's Motion to Strike Doc. No. 62) is **DENIED**. It is further

ORDERED that Air Liquide Large Industries US LP and Air Liquide Large Industries US LP's Motion for Summary Judgment (Doc. Nos. 53-54) is **DENIED**. It is further

ORDERED that Tenaska Power Services Co.'s Motion for Summary Judgment (Doc. Nos. 55-56) is **DENIED**. Finally, it is further

ORDERED that both Air Liquide's and Tenaska's Declaratory Judgment claims are **DISMISSED**.

SIGNED this 20th day of August 2024.

A handwritten signature in black ink, appearing to read "Andrew S. Hanen", written over a horizontal line.

ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE